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8 Attorneys for Plaintiffs

9 UNITED STATES DISTRICT COURT
10 FOR THE CENTRAL DISTRICT OF CALIFORNIA

11 K.A., a minor, G.A., a minor, by and
12 through their guardian ad litem Nancy
13 Luna,

14 Plaintiffs,

15 vs.

16 BARACK HUSSEIN OBAMA II, as an
17 individual and President of the United
18 States of America; UNITED STATES OF
19 AMERICA; DEPARTMENT OF
20 HOMELAND SECURITY;
21 IMMIGRATION CUSTOMS AND
22 ENFORCEMENT; DEPARTMENT
23 OF JUSTICE; METROPOLITAN
24 DETENTION CENTER-FEDERAL
25 BUREAU OF PRISONS; GILES W.
26 DALBY CORRECTIONAL FACILITY-
27 MANAGEMENT AND TRAINING
28 CORPORATION, and DOES 1 -10,
inclusive, each of whom is sued individually
and in their official capacity as officers,
Defendants.

Case No.:

COMPLAINT FOR DAMAGES

Violation of Federal Civil Rights

(Title 42 U.S.C. § 1983, 1988)

*Bivens v. Six Unknown Federal Narcotics
Agents* 403 U.S. 388 1971

[DEMAND FOR JURY TRIAL]

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2 Plaintiffs, K.A., a minor, G.A., a minor, by and through their guardian ad litem
3 Nancy Luna, alleges as follows:

4 JURISDICTION

5 1. The claims herein arise under the Fourth and Fourteenth Amendments of the
6 United States Constitution (Title 42 U.S.C. § 1983 and 1988), thus the jurisdiction of this
7 court is invoked pursuant to Title 28 U.S.C. §§ 1331 and 1343 and *Bivens v. Six Unknown*
8 *Federal Narcotics Agents* 403 U.S. 388 (1971). Accordingly, on November 2, 2015, the
9 Plaintiffs' administrative claim under the provisions of the Federal Tort Claims Act, 28
10 U.S.C. §§ 1346, 2671, et. seq., was denied, thereby affording Plaintiffs right to file in the
11 appropriate United States District Court.

12 VENUE

13 2. The events, acts, and omissions complained of arose within the Central District
14 of California, therefore venue properly lies here pursuant to 28 U.S.C. § 1391. One or
15 more of the defendants resides in or has its principal place of business in Los Angeles
16 County.

17 PARTIES

18 3. Plaintiffs K.A., A minor, G.A., a minor, by and through their guardian ad litem
19 Nancy Luna, are, and at all times related to this complaint, were residents of Los Angeles
20 County.

21 4. Plaintiffs K.A., A minor, G.A., a minor, by and through their guardian ad litem
22 Nancy Luna, are informed and believe, and based thereon allege that at all times related to
23 this complaint, Defendants, BARACK HUESSEIN OBAMA II; DEPARTMENT OF
24 HOMELAND SECURITY; IMMIGRATION AND CUSTOMS ENFORCEMENT;
25 DEPARTMENT OF JUSTICE; METROPOLITAN DETENTION CENTER-
26 FEDERAL BUREAU OF PRISONS; GILES W. DALBY CORRECTIONAL
27 FACILITY-MANAGEMENT AND TRAINING CORPORATION, and DOES 1
28 through 10, inclusive, each of whom at the time of the acts hereinafter complained of, and

1 at all times herein, each was acting in the course and scope of said employment and acting
2 under color of state law. Plaintiffs sue each of these defendants in both their official and
3 individual capacities.

4 5. The president, BARACK HUSSEIN OBAMA II, an individual and elected
5 executive leader of Defendant the UNITED STATES OF AMERICA, is responsible for
6 representing all federal bodies and agencies and was responsible for assuring that the
7 actions, conduct, policies, procedures, and customs of the below herein Defendants listed,
8 complied with the Constitution of the United States.

9 6. The DEPARTMENT OF HOMELAND SECURITY ("DHS") is a federal
10 agency of Defendant the UNITED STATES OF AMERICA ("USA"), which oversees and
11 administers the IMMIGRATION AND CUSTOMS ENFORCEMENT ("ICE"), the
12 federal agency responsible for enforcing the immigration laws of the United States relating
13 to the presence and removal of foreign immigrants located within the boundaries of the
14 United States. DHS was responsible for assuring that the actions, conduct, policies,
15 procedures, and customs of ICE complied with the Constitution of the United States and
16 of the State of California.

17 7. The DEPARTMENT OF JUSTICE ("DOJ") is a federal agency of Defendant
18 the United States of America, which oversees and administers the METROPOLITAN
19 DETENTION CENTER-FEDERAL BUREAU OF PRISONS ("MDC-FBP"), the
20 federal law enforcement agency responsible for the administration of the federal prison
21 system within the boundaries of the United States. DOJ was responsible for assuring that
22 the actions, conduct, policies, procedures, and customs of the FBP and their facilities
23 complied with the Constitution of the United States and of the State of California.

24 8. The GILES W. DALBY CORRECTIONAL FACILITY-MANAGEMENT
25 AND TRAINING CORPORATION ("GWD-MTC"), a private correctional facility
26 managed and operated by the MTC and under contract with the FBP to detain federal
27 prisoners.

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11. The true names of defendants DOES 1 through 10, inclusive, are not now known to Plaintiffs who therefore sues said Defendants by such fictitious names; but upon ascertaining the true name of DOE Defendants, Plaintiffs will amend this complaint, or seek leave to do so, by substituting same for said fictitious name. Plaintiffs are informed and believe, and based thereon alleges that each Defendant DOE is in some manner responsible for the injuries and damages herein complained of.

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13. The acts and events herein complained of, Plaintiffs believe, and allege, are in violation of the Treaty of Guadalupe Hidalgo, a treaty of peace, friendship, limits, and settlement between the United States of America and the United Mexican States, which concluded the U.S./Mexican War of 1848. The treaty was signed on February 2, 1848, ratification advised by the Senate, with amendment on March 10, 1848; Ratified by the President on March 16, 1848; Ratifications exchanged at Queretaro, May 30, 1848 and Proclaimed, July 4, 1848. The treaty was set to establish a solid basis for relations of peace and friendship, which aimed to benefit reciprocally upon the citizens of both nations, and assure the concord, harmony, and mutual confidence wherein the two people should live as good neighbors. The violations described below, Plaintiffs allege, break with the Treaty of Guadalupe Hidalgo, and are affront to harmony and peace - through the mass mistreatment, abuse and violation of civil, international and human rights of migrant and immigrants held in federal prisons, or within the ever-expanding federal contracts with private prison and detention industrial complex.

SECOND CAUSE OF ACTION

Violation of Civil Rights (Title 42 U.S.C. § 1983, 1988)

[AGAINST ALL DEFENDANTS]

14. The acts and events herein complained of began on or about February 6, 2013, when unknown IMMIGRATION AND CUSTOMS ENFORCEMENT agents, along with what Plaintiffs believe were Los Angeles County Sheriff's officers, arrived to the residence of Robert Aguilar Bautista (Aguilar), in Los Angeles County, CA, where he was subsequently detained and arrested. Immediately upon his detention and arrest, Aguilar was transported to the Theo Lacy Facility in Orange County, where it is believed he remained for a period of on our about two weeks and then processed to be moved to be detained in a federal prison.

15. After the Theo Lacy Facility, Aguilar was transferred to the METROPOLITAN DETENTION CENTER-FEDERAL BUREAU OF PRISONS ("MDC-FBP"), where he remained detained at for on our about five to six months. Nancy

1 Luna, mother of Plaintiffs, informed MDC-FBP personnel and took Aguilar's medication
2 bag to inform them of the type of medication Aguilar was utilizing as part of his strict
3 regiment to treat his diagnosis. MDC-FBP staff negated and turned down the medicine,
4 which was the beginning of Aguilar's treacherous stay at MDC-FBP.

5 16. While in detention and under custody at the MDC-FBP, Aguilar began to
6 suffer from the loss of control of his sugar levels, which up until his detention he had
7 control over. Aguilar was given medication while under the custody of MDC-FBP, which
8 eventually damaged his kidneys and at one point, alleged here, Mr. Aguilar also suffered
9 serious eye and vision problems. There was a deliberate indifference to his medical needs,
10 not adequately, and negligently being cared for while at the MDC-FBP from medical staff.
11 Aguilar also repeatedly informed and requested from MDC-FBP officers and other staff
12 that he needed to be diagnosed by a specialist and to be treated for this diabetes.

13 17. Alleged here, is that due to the treatment received, lack of treatment or
14 negligence in treatment or access to treatment while at MDC-FBP, Aguilar was severely
15 damaged both with his vision and kidneys, but also with other health complications that
16 resulted from the deliberate indifference to his needs. There is a malicious intentional
17 system for requesting medical attention that deliberately prolongs the response time
18 between filing a request, receiving an appointment date, wherein many inmates, including
19 Aguilar, never see a physician or medical doctor, and or even nurse, medical assistants or
20 any personnel that can attend to both minor and major medical needs. If and when they do
21 finally receive medical attention, it is very late, as was the case with Aguilar. Guards and
22 other staff at MDC-FBP coordinate and intentionally and deliberately delay the process.
23 Plaintiffs allege that due to this systemic failure of the communication, requests, and
24 processing for medical needs resulted in the lack of care amounting to deliberate
25 indifference, ultimately exacerbating and compounding the injuries and medical problems
26 of Aguilar.

27 18. By reason of the afore-described acts, omissions, and conspiracy of defendants,
28 and each of them, plaintiff suffered great physical and mental injury, trauma, pain, shock,

1 anxiety, degradation, humiliation, fear and emotional distress, causing Aguilar to become
2 blind and ultimately led to his wrongful death all to his damage in an amount not yet
3 ascertained but to be proved in court.

4 19. By reason of the afore-described acts and omissions by Defendants, Aguilar,
5 father of Plaintiffs, required medical care and treatment, and examination and by reason
6 thereof, Aguilar incurred irrevocable damages ultimately setting the condition for his death.
7 It is at MDC-FBP where his death is rooted, and where, as later described; damages were
8 exacerbated when Aguilar is transferred to the GILES W. DALBY CORRECTIONAL
9 FACILITY-MANAGEMENT AND TRAINING CORPORATION ("GWD-MTC"),
10 these damages are in an amount not yet ascertained but to be proved in court.

11 20. The afore-described acts of Defendants were done knowingly, intentionally, and
12 for the purpose of vexing, and injuring Plaintiffs and to maliciously deprive Plaintiffs of
13 rights guaranteed by the United States and California Constitutions and in conscious
14 disregard thereof; and by reason thereof, plaintiff claims exemplary and punitive damages
15 from defendants in an amount to be proved.

16 21. Pursuant to the above Title 42 U.S.C. § 1983, Plaintiffs bring this action
17 alleging Defendants wrongfully deprived decedent Aguilar of his life, resulting in damages
18 to his minor children, K.A. and G.A. who were dependent upon AGUILAR for financial
19 assistance as well as love and society, for which Defendants are liable.

20 22. Plaintiffs allege that from the time of his arrest and detention, particularly while
21 at the MDC-FBP, Defendants did negligently, carelessly and without due care, and without
22 cause or provocation, negate adequate medical care, resulting in the lack of care amounting
23 to deliberate indifference, ultimately resulting in Aguilar's death.

24 23. Plaintiffs allege that from the time of his arrest and detention, particularly while
25 also at the GILES W. DALBY CORRECTIONAL FACILITY-MANAGEMENT AND
26 TRAINING CORPORATION - a facility contracted by Defendant the UNITED
27 STATES OF AMERICA ("GWD-MTC"), DOJ AND THE FBP, Defendants did
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28 METROPOLITAN DETENTION CENTER-FEDERAL BUREAU OF PRISONS
 27 DEPARTMENT OF JUSTICE ("DOJ") which oversees and administers the
 26 administers the IMMIGRATION AND CUSTOMS ENFORCEMENT ("ICE"), and
 25 the DEPARTMENT OF HOMELAND SECURITY ("DHS") which oversees and
 24 until the present, Defendants the UNITED STATES OF AMERICA, specifically through
 23 27. On or about February 6, 2013, and for some time prior thereto and since then

22 every paragraph above as though fully set forth herein.

21 26. Plaintiff hereby incorporates by reference each and every allegation of each and

20 and DOES 1-10, inclusive.]

19 [AGAINST Defendants UNITED STATES OF AMERICA
 18 *Bivens v. Six Unknown Narcotics Agents* 403 U.S. 388 (1971)

17 THIRD CAUSE OF ACTION

16 reasonable sum for attorney's fees pursuant to 42 U.S.C. § 1988.

15 aforementioned rights; and by reason thereof plaintiff requests payment by defendants of a
 14 render legal assistance to plaintiff that he might vindicate the loss and impairment of his
 13 were required to retain an attorney to institute and prosecute the within action and to
 12 25. By reason of the afore-described acts and omissions of Defendants, Plaintiffs
 11 proof.

10 remainder of their natural lives, all to their damage and which is hereby sought according to
 9 of decedent, Roberto Aguilar Bautista, and will continue to be so deprived for the
 8 Plaintiffs were deprived of the life-long comfort, love, support, society, care and sustenance
 7 24. As a proximate result of the above-described acts and omissions of defendant,

6 2014.

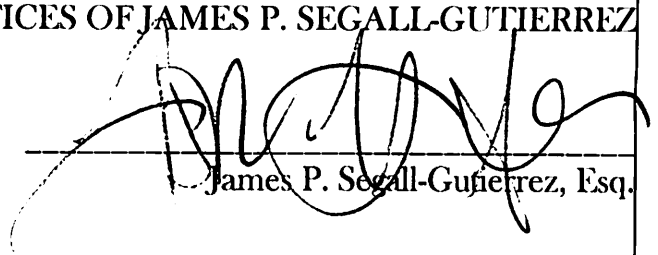
5 Aguilar at the MDC-FBP stated above, resulting in Aguilar's death on or about March 4,
 4 ultimately exacerbating and compounding the injuries and medical problems caused upon
 3 adequate medical care, resulting in the lack of care amounting to deliberate indifference,
 2 negligently, carelessly and without due care, and without cause or provocation, negate
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1 (“MDC-FBP”), and finally, GILES W. DALBY CORRECTIONAL FACILITY-
2 MANAGEMENT AND TRAINING CORPORATION (“GWD-MTC”) - a facility
3 contracted by Defendant the UNITED STATES OF AMERICA, DOJ AND THE FBP
4 and DOES 1-10 inclusive, maintained and enforced a policy, custom and practice of
5 negligently employing, training, assigning, and supervising sworn and contracted agents,
6 who were predisposed to dishonesty or negligence, and of permitting and ratifying
7 violations, under the color of law, of the First, Fourth, Eighth, and Fourteenth
8 Amendments to the U.S. Constitution.

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10 28. Also, on or about February 6, 2013, and for some time prior thereto and
11 since then until the present, Defendants the UNITED STATES OF AMERICA, DHS,
12 ICE, DOJ, MDC-FBP, and the GWD-MTC, inclusive, failed to properly train, assign,
13 supervise, and guide their agents, in regards to dealing with incarcerated individuals, proper
14 intake or response to claims or grievances of incarcerated individuals, responding to
15 requests for providing adequate medical care, and for some time prior hereto and since,
16 have condoned, tolerated and accepted, and continue to condone, tolerate and accept the
17 writing of inadequate an or false reports, planting or withholding evidence, allow
18 misconduct to escape detection, the deficient supervision of guards, agents or officers, and
19 in particular, the failure to intercede in the misconduct or negligence by its officers.

20 29. Furthermore, on or about February 6, 2013, and for some time prior
21 thereto and since then until the present, Defendants the UNITED STATES OF
22 AMERICA, DHS, ICE, DOJ, MDC-FBP, and the GWD-MTC, inclusive, failed to fully
23 and objectively investigate claims, reports or allegations of misconduct or negligence by the
24 agents, guards or officers under their command. As a result of said acts, omissions, policies,
25 customs and practices, officers who so engaged in a pattern of misconduct or negligence,
26 violates the law, and wholesale violations of the civil rights were allowed and are allowed to
27 continue in their malfeasance unabated by any efforts of their superiors.
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1 LAW OFFICES OF JAMES P. SEGALL-GUTIERREZ

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4 James P. Segall-Gutierrez, Esq.
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6 DEMAND FOR JURY TRIAL

7 Plaintiff hereby demands a jury trial.
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9 Dated: February 2, 2016
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11 LAW OFFICES OF JAMES P. SEGALL-GUTIERREZ

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14 James P. Segall-Gutierrez, Esq.
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